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Express Mail EV 432181075 US

June 21, 2005

DOCKET FILE COPY ORIGINAL

RECEIVED & INSPECTED

JUN 27 2005

FCC - MAILROOM

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. Suite TW-A325
Washington, D.C. 20554

Appeal
and

Demand for Expedited Relief

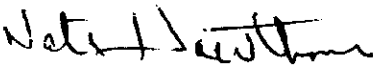
CC Docket No. 96 - 45; CC Docket No. 97 - 21

Re: Vidalia City School District Schools

This is an appeal and request for expedited relief from a decision by the Schools and Libraries Division of the USAC to the Federal Communications Commission.

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed; please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

Sincerely,


Nathaniel Hawthorne

024

Express Mail EV 432181075 US

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED & INSPECTED

JUN 27 2005

FCC - MAILROOM

In the Matter of the Appeal of the)	File No. SLD -
)	
Decision of the)	
)	
Universal Service Administrator by)	
)	
<u>Vidalia City School District Schools</u>)	
)	
Federal-State Joint Board on)	
)	CC Docket No. 96 - 45
Universal Service)	
)	
Changes to the Board of Directors of)	
)	
The National Exchange Carrier)	CC Docket No. 97 - 21
)	
Association, Inc.)	

Appeal
and
Demand for Expedited Relief

June 21, 2005

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W. Suite TW-A325
Washington, D.C. 20554

This is an appeal and request for expedited relief from a decision by the Schools and Libraries Division of the USAC to the Federal Communications Commission.

Enclosed are the original and four copies of the Appeal. An extra copy is also enclosed; please time stamp the extra copy and return it to me in the enclosed self addressed-stamped envelope.

(1) Funding Commitment Decision Letter Appealed

Form 471 Application Number:	462880
Funding Year 2004:	07/01/2005-06/30/2006
Billed Entity Number:	127345
Date of Funding Denial Notice:	May 23, 2005
Date of Appeal:	June 21, 2005

(2) SLD Contact Information

Sabrina Wiggs
Technology Coordinator
Vidalia City School District Schools
(912) 537-3088
301 Adams Street
Vidalia GA 30474

(2) Application Appealed

Form 471 Application Number: 462880

(4) The SLD stated, in rejecting the entire Application, that :

"The signature in Block 6, Item 38, of the Certification page submitted is blank."
Exhibit A

(5) New Hartford Order , File No. SLD- 007628, Rel Nov. 2, 2002, is decisive. The Order provides, inter alia, that:

"5. ...

6. The Commission's rules authorize SLD to establish and implement filing periods and program standards for FCC Form 471 applications and minimum processing standards for the signature certification. We note that the signature certification is fundamental to the administration of the schools and libraries program. SLD relies on the signature certification to establish the authority of the signer to represent the applicant. Signature certifications on the FCC Form 470 ultimately satisfy the program's policy objective of binding the applicants to the program requirements. Therefore, we find that the original signature certification requirement is essential in protecting the program from fraud and waste, serves as an additional means of holding applicants accountable for their representations, and assists in the efficient administration of the program.

7. ... **A printed name on an instrument that is intended to have the force of a signature is valid and thus will have the intended force and effect as though the name were written in the person's own handwriting.... The Uniform Commercial Code (UCC) definition of a signature includes 'any symbol executed or adopted by a party with a present intention to authenticate a writing.'...**

[emphases added]

Exhibit B

- (6) Sabrina Wiggs's signature meets the SLD's minimum processing standard for an original ink signature.

Exhibit C

Conclusion:

Vidalia is Requesting the Following Action by the FCC:

- (a) **Within 30 days or less Order the SLD to process Vidalia's FCC 471 Application Number 462880; and,**
- (b) **Set aside funds to totally fund Vidalia's 471 request.**

Respectfully submitted,


Nathaniel Hawthorne

Ohio Bar # 0008881
Nathaniel Hawthorne,
Attorney/Consultant, Ltd.
27600 Chagrin Blvd., #265
Cleveland, OH 44122
tel.: 216/514.4798
nhawthorne@earthlink.net

Attorney for
Vidalia City School District

Cc: Sabrina Wiggs

Vidalia City School District



Universal Service Administrative Company
Schools & Libraries Division

FORM 471 CERTIFICATION REJECTION LETTER
FUNDING YEAR 2005 (July 1, 2005 - June 30, 2006)

05/23/2005

SABRINA WIGGS
VIDALIA CITY SCHOOL DISTRICT
301 ADAMS STREET
VIDALIA, GA 30474

Re: Applicant's Form Identifier: FY05
Form 471 Application Number: 462880

Dear Contact Name:

This letter is your notification that the Certification page of the Form 471, Services Ordered and Certification Form, you submitted did not meet Minimum Processing Standards. Therefore we are returning your Form 471 Certification with this letter, which means that the Schools and Libraries Division (SLD) could not process it. Here is an explanation of the specific reason(s) your Form 471 Certification did not meet the Minimum Processing Standards:

- The Signature in Block 6, Item 38, of the Certification page submitted is blank.

We recommend that you notify your service provider(s) about this decision..

TO APPEAL THIS DECISION

If you wish to appeal the decision in this letter, your appeal must be received by the SLD or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and (if available) e-mail address for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Include the following to identify the decision letter and the decision you are appealing:
 - appellant name,
 - appellant address,
 - appellant phone and/or SPIN,
 - and the Application Number as assigned by the SLD (located at the top of the letter).

3. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal, including any correspondence and documentation.

4. Please provide a copy of your appeal to the service provider(s) affected by the SLD's decision.
5. Provide an authorized signature on your letter of appeal.

To submit your appeal to the SLD by e-mail, use the "Submit a Question" feature on the web site at www.sl.universalservice.org. Click "Continue," choose "Appeals" from the Topics Inquiry on the lower portion of your screen, and click "Go" to begin your appeal submission. The system will prompt you through the process. The SLD will automatically reply to incoming e-mails to confirm receipt.

To submit your appeal to the SLD by fax, fax your appeal to (973) 699-6542.

To submit your appeal to the SLD on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received by the FCC or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. We strongly recommend that you use the electronic filing options described in the "Appeals Procedure" posted in the Reference Area of our web site. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554.

Schools and Libraries Division
Universal Service Administrative Company

Enclosure:

(1) Form 471 Certification

Application ID : 462880

Y OE.

NEC71C82-22-0503200007

Entity Number 127345Applicant's Form Identifier FY05Contact Person Sabrina WiggsPhone Number 912 537-3088**Block 6: Certifications and Signature**24 ☒ I certify that the entities listed in Block 4 of this application are eligible for supporta ☒ schools under the statutory definitions of elementary and secondary schools 2001, 20 U.S.C. Secs. 7801(18) and (38), that do not operate as for-profit but exceeding \$50 million; and/or

b libraries or library consortia eligible for assistance from a State library admin Technology Act of 1996 that do not operate as for-profit businesses and whose schools, including, but not limited to, elementary, secondary schools, colleges, or universities.

25 ☒ I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed on this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

a	Total funding year pre-discount amount on this Form 471 (Add the entries from Items 23i on all Block 5 Discount Funding Requests.)	1 3 6 1 8 5 8 . 0 0
b	Total funding commitment request amount on this Form 471 (Add the entries from Items 23K on all Block 5 Discount Funding Requests.)	1 2 2 5 6 7 2 . 2 0
c	Total applicant non-discount share (Subtract Item 25b from Item 25a.)	1 3 6 1 8 5 . 8 0
d	Total budgeted amount allocated to resources not eligible for E-rate support	6 5 0 0 0 . 0 0
e	Total amount necessary for the applicant to pay the non-discount share of the services requested on this application AND to secure access to the resources necessary to make effective use of the discounts. (Add Items 25c and 25d.)	2 0 1 1 8 5 . 8 0
f	Check this box if you are receiving any of the funds in Item 25a directly from a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year, or if a service provider listed on any of the Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds in Item 25e.	

26 ☒ I certify that all of the schools and libraries or library consortia listed in Block 4 of this application are covered by technology plans that are written, that cover all 12 months of the funding year, and that have been or will be approved by a state or other authorized body, and an SLD-certified technology plan approver, prior to the commencement of service. The plans were written at the following level(s):

- a an individual technology plan for using the services requested in this application; and/or
- b ☒ higher-level technology plan(s) for using the services requested in this application; or
- c no technology plan needed; applying for basic local and long distance telephone service only.

27 ☒ I certify that I posted my Form 470 and (if applicable) made my RFP available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology plan goals.28 ☒ I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.29 ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. Sec. 54.500(k). Additionally, I certify that the Billed Entity has not received anything of value or a promise of anything of value, other than services and equipment requested under this form, from the service provider(s), or any representative or agent thereof or any consultant in connection with this request for services.30 ☒ I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts covering all of the services listed on this Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

Application ID : 462880

Do not write in this area

Entity Number	127345	Applicant's Form Identifier	FY05
Contact Person	Sabrina Wiggs	Phone Number	912 537-3088

- 31 ☒ I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.
- 32 ☒ I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- 33 ☒ I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001 and civil violations of the False Claims Act.
- 34 ☒ I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- 35 ☒ I certify that if any of the Funding Requests on this Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the cost of the contract to eligible and ineligible components as required by the Commission's rules at 47 C.F.R. Sec. 54.504(g)(1), (2).
- 36 ☒ I certify that this funding request does not constitute a request for internal connections services, except basic maintenance services, in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. Sec. 54.506(c).
- 37 ☒ I certify that the non-discount portion of the costs for eligible services will not be paid by the service provider. The pre-discount costs of eligible services featured on this Form 471 are net of any rebates or discounts offered by the service provider. I acknowledge that, for the purpose of this rule, the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.

38	Signature of authorized person	39 Date	MMDDYYYY
40	Printed name of authorized person S a b r i n a W i g g s		
41	Title or position of authorized person T e c h n o l o g y C o o r d i n a t o r		
42a	Street Address, P.O. Box, or Route Number 3 0 1 A d a m s S t r e e t		
	City V I D A L I A		
	State Zip Code G A 3 0 4 7 4		
42b	Telephone number of authorized person	Ext	42c Fax number of authorized person
	9 1 2 5 3 7 3 0 8 8		9 1 2 5 3 8 9 3 8
42d	E-mail address of authorized person s w i g g s @ v i d a l i a - c i t y . k 1 2 . g a . u s		



Entity Number 127345

Applicant's Form Identifier FY05

Contact Person Sabrina Wiggs

Phone Number 912 537-3088

41 Name of authorized person's employer

V i d a l i a C i t y S c h o o l D i s t r i c t

The Americans with Disabilities Act, the Individuals with Disabilities Education Act and the Rehabilitation Act may impose obligations on entities to make the services purchased with these discounts accessible to and usable by people with disabilities.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public.

If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

SLD-Form 471
P.O. Box 7026
Lawrence, Kansas 66044-7026

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

SLD Forms
ATTN: SLD Form 471
3833 Greenway Drive
Lawrence, Kansas 66046
(888) 203-8100



Exhibit B

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
New Hartford Central School District)	File No.SLD- 007628
New Hartford, New York)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: October 31, 2001**Released: November 2, 2001**

By the Common Carrier Bureau:

1. The Common Carrier Bureau (Bureau) of the Federal Communications Commission has under consideration a Request for Review from New Hartford Central School District (New Hartford), New Hartford, New York.¹ New Hartford challenges the denial of its application for discounts in Funding Year 1 of the schools and libraries universal service support mechanism, by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator). For the reasons set forth below, we grant New Hartford's Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the Administrator a completed FCC Form 470, in which the applicant sets forth its

¹ Letter from James Dieso, New Hartford Central School District, to Federal Communications Commission, filed March 10, 2000 (Request for Review); *see also* Letter from James Dieso, New Hartford Central School District, to Schools and Libraries Division, dated March 18, 1999. On appeal to the Commission, New Hartford alleges that SLD misapplied our rules. New Hartford also requests a waiver of our rules to the extent necessary to remedy the harm that it asserts occurred as a result of the misapplication of our rules. We refer to New Hartford's pleading as a Request for Review throughout this Order.

² 47 C.F.R. §§ 54.502, 54.503.

technological needs and the services for which it seeks discounts.³ Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, the applicant must submit a completed FCC Form 471 application to the Administrator.⁴ In the Funding Year 1 FCC Form 470 and 471 instructions, SLD has clearly set forth its standards for processing FCC Form 470 and 471 applications.⁵ Specifically, the FCC Form 470 instructions state that, "Block 6 requires you to certify certain information to ensure that only eligible entities receive support under the universal service discount mechanism."⁶

3. The record shows that New Hartford submitted a FCC Form 470 on March 12, 1998.⁷ On March 21, 1998, SLD informed New Hartford that its FCC Form 470 application did not meet SLD's minimum processing standards because its FCC Form 470 Block 6 signature certification was photocopied.⁸ Subsequently, attached to a letter dated March 24, 1998, New Hartford resubmitted the signature block of its FCC Form 470 with an original handwritten signature.⁹ SLD posted New Hartford's FCC Form 470 for competitive bidding on March 30, 1998, thus creating an allowable contract date of April 27, 1998.¹⁰ SLD received New Hartford's manually submitted Funding Year 1 FCC Form 471 on April 28, 1998, outside the Funding Year 1 filing window that closed on April 15, 1998.¹¹ On March 15, 1999, SLD sent New Hartford a letter stating that its FCC Form 471 was received outside of the filing window.¹²

4. On March 24, 1999, New Hartford appealed SLD's letter that stated that its FCC Form 471 was filed outside of the filing window because SLD improperly delayed posting of

³ 47 C.F.R. § 54.504(b)(1), (b)(3).

⁴ 47 C.F.R. § 54.504(c).

⁵ Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 470), OMB 3060-0806 (December 1997) (Funding Year 1 FCC Form 470 Instructions); Instructions for Completing the Schools and Libraries Universal Service, Services Ordered and Certification Form (FCC Form 471), OMB 3060-0806 (December 1997) (Funding Year 1 FCC Form 471 Instructions).

⁶ FCC Form 470 Instructions, at 12.

⁷ FCC Form 470, New Hartford Central School District, filed March 12, 1998.

⁸ Universal Service Administrative Company, Schools and Libraries Division, Program Integrity Assurance (PIA) Log, New Hartford Central School District, dated March 23, 1998 (showing that PIA contacted New Hartford by telephone on March 18, 1998 and March 21, 1998 to get an original FCC Form 470 signature certification).

⁹ FCC Form 470, New Hartford Central School District, filed March 30, 1998.

¹⁰ *Id.*

¹¹ In Funding Year 1 the filing window closed on April 15, 1998. *See generally* Universal Service Administrative Company (USAC), Schools and Libraries Program, Reference Area: Form 471 Minimum Processing Standards and Filing Requirements, <<http://www.sl.universalservice.org/reference/471mps.asp>>; *see also* FCC Form 471, New Hartford Central School District, filed April 28, 1998.

¹² Letter from Schools and Libraries Division, Universal Service Administrative Company, to New Hartford Central School District, dated March 15, 1999 (stating that New Hartford's FCC Form 471 could not be processed because it was outside of the filing window).

New Hartford's FCC Form 470.¹³ New Hartford requested that SLD reconsider its decision to classify New Hartford's FCC Form 471 as a post window filing.¹⁴ SLD issued an Administrator's Decision on Waiver Request letter on February 15, 2000, stating that SLD was not authorized to issue a decision regarding New Hartford's request that the filing window be waived.¹⁵ SLD directed New Hartford to seek relief from the Commission.¹⁶ Subsequently on March 10, 2000, New Hartford filed a Request for Review with the Commission.¹⁷

5. In support of its Request for Review, New Hartford argues that due to SLD's minimum processing standards, it was unable to complete its FCC Form 471 before the April 15, 1998 filing window.¹⁸ For the reasons stated below, we grant New Hartford's Request for Review because we conclude that a photocopied signature constitutes a valid signature certification under FCC rules and that SLD improperly delayed posting New Hartford's FCC Form 471 application.

6. The Commission's rules authorize SLD to establish and implement filing periods and program standards for FCC Form 471 applications and minimum processing standards for the signature certification. We note that the signature certification is fundamental to the administration of the schools and libraries program. SLD relies on the signature certification to establish the authority of the signer to represent the applicant. Signature certifications on the FCC Form 470 ultimately satisfy the program's policy objective of binding the applicants to the program requirements. Therefore, we find that the original signature certification requirement is essential in protecting the program from fraud and waste, serves as an additional means of holding applicants accountable for their representations, and assists in the efficient administration of the program.

7. Based on the facts before us, we find that New Hartford's initially submitted FCC Form 471 with a photocopied signature was made with the intent to certify its FCC Form 471. New Hartford initially submitted a FCC Form 470 with a photocopied signature certification. It is settled under federal and common law that when a person attaches his name or causes it to be attached to a document with the intention of signing it, the document is regarded as "signed" in writing.¹⁹ It is also well settled that a signature may be affixed by writing by hand, printing, stamping, or by various other means.²⁰ A printed name on an instrument that is intended to have

¹³ SLD Appeal, at 1

¹⁴ *Id.*

¹⁵ Letter from Schools and Libraries Division, Universal Service Administrative Company, to New Hartford Central School District, dated February 15, 2000 (Administrator's Decision on Waiver Request).

¹⁶ *Id.*

¹⁷ Request for Review, at 1.

¹⁸ *Id.*

¹⁹ *Denunzio Fruit Co. v. Crane*, 79 F. Supp. 117, 128 & n.16 (1948); *United States v. Tasher*, 453 F.2d 244 (10th Cir. 1972).

²⁰ *Carna v. Bessemer Cement Co.*, 558 F. Supp. 706, 708 (1983); 80 C.J.S. *Signatures* § 7 (1953).

the force of a signature is valid and thus will have the intended force and effect as though the name were written in the person's own handwriting.²¹ The Uniform Commercial Code (UCC) definition of a signature includes "any symbol executed or adopted by a party with a present intention to authenticate a writing."²² We find these precedents instructive in our determination that New Hartford's stamped signature was a signature made with the intent to certify its FCC Form 470 application. In the present case, we conclude that a photocopied signature is a binding act that signifies the intent of the party to be bound by the program rules. Based on this analysis, a photocopied signature meets the minimum processing standard for an original ink signature.

8. New Hartford also requests that we waive the filing window deadline to allow SLD to process its application, thereby according it the same priority as applicants that filed during the window.²³ Our review of the record reveals that a delay by SLD in posting New Hartford's FCC Form 470 occurred because SLD improperly concluded New Hartford had failed to meet minimum processing standards. The Administrator's error resulted in a circumstance that essentially forced New Hartford to choose between (1) complying with the 28-day waiting period required by the Commission's competitive bidding rules and, as a result, filing outside the window, and (2) filing its FCC Form 471 within the filing window in contravention of the 28-day waiting period requirement. Faced with this choice, New Hartford chose to wait 28 days and file outside the filing window.²⁴ In previous cases, the Bureau waived the 28-day waiting period when SLD delayed posting of an applicant's FCC Form 470 that resulted in the applicant's failure to timely file its FCC Form 471 within the filing window.²⁵ The record demonstrates that SLD's actions led New Hartford to file an out of window FCC Form 471. We find it appropriate to waive the filing window deadline for Funding Year 1 for New Hartford.

²¹ *Id.* at 708. For additional support, see *Denunzio Fruit Co. v. Crane*, 79 F. Supp. 117, 128 (1948) (citing *Smith v. Greenville County*, 188 S.C. 349, 199 S.E. 416, 419) ("A signature may be written by hand, printed, stamped, typewritten, engraved, photographed, or cut, from one instrument and attached to another, and a signature lithographed on an instrument by a party is sufficient for the purpose of signing it; it being immaterial with what kind of instrument a signature is made.").

²² Uniform Commercial Code, § 21-2 (2d ed. 1980).

²³ Request for Review, at 1.

²⁴ FCC Form 471, New Hartford Central School District, filed April 28, 1998.

²⁵ *Council Bluffs Community Schools*, CC Docket Nos. 96-45 and 97-21, Order, DA 00-1909 (rel. August 22, 2000); see also *Runnemede Public Schools*, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2957 (rel. December 21, 1999).

9. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed March 10, 2000 by New Hartford Central School District, New Hartford, New York IS GRANTED and this matter is remanded to USAC for further processing.

FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey
Deputy Chief, Common Carrier Bureau

Exhibit C

Affidavit

State of Georgia

)
) ss.
)

I, Sabrina Wiggs, being first duly sworn, depose and say the following:

1. I am the Technology Coordinator for Vidalia City School District (Vidalia);
2. I filed FCC 471 Application # 462880 (Application) for Vidalia;
3. I was authorized to file said Application;
4. I intended that my printed name in Block 6, Item 38, Certification page, FCC Form 471, Application # 462880, to have the force and effect as though it were written in my own handwriting;
5. My intent was to certify file FCC 471 Application # 462880 for Vidalia;

Further affiant sayeth naught.

Sabrina Wiggs
Sabrina Wiggs

Sworn to and subscribed before me this 17th day of June 2005.

Brenda C. Baker

Notary Public

My Commission expires on: 9/29/07